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SIXTH ANNUAL REPORT

of the

SOUTH CAROLINA

SECOND INJURY FUND

to the

GENERAL ASSEMBLY

July 1, 1979 through June 30, 1980

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**Printed Under the Direction of the
State Budget and Control Board**

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LETTER OF TRANSMITTAL

Columbia, S.C. July 1, 1980

*TO: His Excellency, the Governor of South Carolina, The
Honorable Members of the Senate and House of Representatives,
Columbia, South Carolina.*

Gentlemen:

I am pleased to report herein the activities of the South Carolina
Second Injury Fund for the fiscal year 1979-80.

Respectfully submitted,

Douglas P. Crossman

Douglas P. Crossman, Director

HISTORICAL DEVELOPMENT

Second Injury Funds, also commonly referred to as Subsequent Injury Funds or Special Disability Funds, are set up within the administrative framework of the Workmen's Compensation Act. These funds are established by employers who hire a handicapped worker will not, in the event such worker suffers a subsequent injury or disability, be held liable for a greater disability than actually occurred while the worker was in his employment. Under such a system, the employer creates employment opportunities for disabled workers by removing an employer's fear of increased Workmen's Compensation costs. The system of appointment varies from state to state and provides a means for determining how the employer in South Carolina is reimbursed or how his liability is limited when the handicapped worker sustains a subsequent injury or disability.

SOUTH CAROLINA SECOND INJURY FUND

Douglas P. Crossman
Director

The Administration of the Second Injury Fund has changed both in structure and personnel since its inception. The Fund is administered by the Director, a Claims Administrator, and a Staff of Field Representatives. The Field Representatives are initially responsible to the Director, and their major areas of activity are claims, finance, and employer-insurance carrier education.

The claims handling consists of receiving and processing claims against the Fund. This includes investigation, evaluation, and developing a course of action as well as reaching a disposition in each case. All fatal cases reported to the South Carolina Industrial Commission are reviewed by the staff, and in the absence of dependents or next-of-kin in fatal Workmen's Compensation cases, the Second Injury Fund is beneficiary of the commuted death benefits normally paid to the dependent or next-of-kin.

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HISTORICAL DEVELOPMENTS

Second Injury Funds, also commonly referred to as Subsequent Injury Funds or Special Disability Funds, are set up within the administrative framework of the Workmen's Compensation system to insure that an employer who hires a handicapped worker will not, in the event such worker suffers a subsequent injury on the job, be held liable for a greater disability than actually occurred while the worker was in his employment. Under such a system the employer pays only the benefits that are due for the second injury. This creates additional employment opportunities for disabled workers by removing an employer's fear of increased Workmen's Compensation costs. The system of apportionment varies from state to state, and a discussion of how the employer in South Carolina is reimbursed or how his liability is limited when the handicapped worker sustains a subsequent injury is found in a later section.

The Workmen's Compensation Law in South Carolina has contained provision for Second Injury Fund benefits to insure employees since the Law was enacted in 1936. Inadequate funding and the narrow scope of the Law prevented effective utilization of the Fund by employers and employees. In 1972 the Act was amended creating a broad-coverage Second Injury Fund and again amended in 1974 establishing the Fund as a separate state agency.

ADMINISTRATION

The Administration of the Second Injury Fund has changed both in structure and number of staff. The organization now consists of the Director, a Claims Manager, a Business Manager, three Claims Field Representatives, a Staff Assistant, and a Secretary. All staff members are initially responsible to the Director, and their major areas of activity are claims, finance, and employer-insurance carrier education.

The claims handling consists of receiving and processing claims against the Fund. This includes investigation, evaluation, and developing a course of action as well as reaching a disposition in each case. All fatal cases reported to the South Carolina Industrial Commission are reviewed by the staff; and in the absence of dependents or next-of-kin in fatal Workmen's Compensation cases, the Second Injury Fund is beneficiary of the commuted death benefits normally paid to the dependents or next-of-kin.

The financial operation consists primarily of assessing all carriers-insurance companies, self-insured employers and self-insured funds. This is accomplished by using the formula found in Section 42-7-310 Code of Laws of South Carolina. From a very fundamental standpoint this operation is responsible for maintaining the solvency of the Fund.

The educational functions are accomplished by:

1. The Director of the Fund at various Industrial Commission, employer and insurance carrier conferences by presenting films about the Fund and then conducting question and answer sessions.
2. The Claims Field Representatives, while in the field attending hearings and conducting investigations, explaining to both employers and carriers the extent of coverage by the Fund.

STATUTORY AUTHORITY FOR THE AGENCY

Section 42-7-310 of the South Carolina Workmen's Compensation Law creates the Fund and establishes the agency to administer the Fund in accordance with the provision of Section 42-9-400 and 42-9-410

The following outline lists the basic requirements for reimbursement:

1. The employee must have a prior permanent physical impairment of such seriousness as to constitute a hindrance or obstacle to obtaining employment or reemployment.
- 2.(a) The employer must establish by written records that he had knowledge of the permanent physical impairment at the time the employee was hired or retained, and these records must be filed with the Industrial Commission and the Second Injury Fund when a claim is made for reimbursement; or
- (b) The employer may qualify for reimbursement if he can show proof that he did not have a prior knowledge of the employee's pre-existing physical impairment, because the existence of such condition was concealed by the employee or was unknown to the employee.

3. The employee must sustain a subsequent occupation injury:
- (a) Which results in the employer's liability for disability that is substantially greater than that which would have resulted from the new injury alone because of a combination with or aggravation of the prior impairment.
 - (b) Which most probably would not have occurred "but for" the presence of the prior impairment; or
 - (c) Which results in the death of the employee, and the death would not have occurred except for the pre-existing impairment.

The Second Injury Fund principle requires that costs of the benefits payable be allocated between the employer or insurer on one hand, and the Second Injury Fund, on the other. It is most common for the employer or his insurer to pay the disability caused by the second injury and the Second Injury Fund to make up the difference between the employer's liability and whatever is payable as a whole. In revising the Second Injury Fund in South Carolina, the Legislature attempted to establish a system of reimbursement that would eliminate a controversy over proportionate sharing in particular cases and expedite the other determinations that need to be made in order that the employee or his beneficiaries receive payments. For this reason, the 78 week rule was established requiring the employer to pay the first 78 weeks of disability. Thereafter, this same employer is eligible to receive reimbursement from the Second Injury Fund for all remaining benefits.

Before the Fund can reimburse an employer, a handicapped worker must suffer a subsequent injury. This injury must combine with or aggravate the prior impairment, thus causing liability greater than that which would have occurred from the subsequent injury alone. This is the basic concept of Second Injury Fund legislation; and without this increase in liability, the employer has not been placed at a disadvantage. Therefore, he would not be eligible for reimbursement.

FINANCIAL STATEMENT

FISCAL 1979-80

Balance from previous year \$517,319.00

Receipts

Investments	\$150,768.00
No Next-of-Kin Benefits.....	221,276.00
Assessments	2,031,262.00
Miscellaneous	500.00

Total \$2,403,806.00

Disbursements

Claims paid by the Fund	\$1,556,532.00
Administrative Costs	171,776.00

Total \$1,728,308.00

Balance in Fund @ 30 June 80 \$1,192,817.00

ASSESSMENTS

Section 42-7-310 subsection (d) of the Workmen's Compensation Laws of South Carolina states that:

The funding of the Second Injury Fund on a continuing basis shall be by equitable assessments upon each carrier (which, by definition herein, shall include all insurance carriers, self-insurers and the State Workmen's Compensation Fund) in a manner as follows:

Each carrier shall, under regulations prescribed by the Industrial Commission, make payments to the Fund in an amount equal to that proportion of one hundred seventy-five percent of the total disbursement made from the Fund during the preceding fiscal year less the amount of the net assets in the Fund as of June thirtieth of the same fiscal year, which the *total benefits* paid by such carrier bore to the *total benefits* paid by all carriers during the calendar year which ended within the preceding fiscal year. An employer who has ceased to be a self-insurer shall continue to be liable for any assessments into the Fund on account of any benefits paid by him during such calendar year.

These assessments were sent to each carrier in August 80 and payments subsequently received at the Second Injury Fund.

175% of the disbursement is	\$3,024,539.00
Less remaining net assets @ 30 Jun 80	1,192,817.00
Equals Second Injury Fund Assessment for 1979-80	1,831, 722.00

This assessment (\$1,831,722) divided by the total Workmen's Compensation Benefits paid by all carriers (\$74,616,519) equals the assessment rate (.02454847) applied to each carrier.

CLAIMS ACTIVITY AGAINST FUND

Claims carried from 1978-79	791
Claims against Fund	497
Claims closed	551
Claims opened at end of fiscal year 1979-1980	737
Total claims paid	175
Average disbursement	\$8,894
Reimbursements Fiscal Year 1979-80.....	\$1,556,532
Reimbursements Fiscal Year 1978-79.....	\$1,304,020

LAPSED DEATH BENEFITS PAID INTO FUND

Fatal Cases Reviewed	147
1. Above cases fully investigated or litigated.....	10
2. Recovery	\$221,276

HEARINGS AND OTHER LEGAL PROCEEDINGS

Proceedings Attended	325
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The rate of increase in claims against the Fund has decreased as a result of better quality claims made by carriers and employers. Also, the time period for filing claims has been extended. Many claims previously reported never went over 78 weeks of liability. Employers and carriers must now file claims before the payment of 78 weeks of compensation rather than before 78 weeks following the injury.

TOTAL DOLLARS PAID BY THE SECOND INJURY TO INSURANCE COMPANIES OR SELF- INSURED FOR FISCAL YEAR 1979-80

Aetna Casualty & Surety	\$115,886.62
Aetna Insurance	98,362.64
Affiliated F & M	22,743.00
American Insurance	10,000.00
American Motorist	63,469.05
American Mutual	38,563.95
Associated Indemnity	10,248.93
Casualty Reciprocal Exchange	11,250.00
Coats & Clark*	26,998.83
Commercial Union	11,108.35
Continental Casualty	14,406.58
Crawford & Company	54,767.38
Crum & Forster	666.00
Dan River*	26,811.59
Duke Power Company*	17,223.72
Employers Insurance of Wausau	5,394.28
Federated Mutual	28,353.90
Georgia Casualty	34,855.02
Greenwood Mills*	22,469.63
The Hartford	28,582.82
Hewitt, Coleman & Associates	18,350.66
Home Insurance	11,874.94
Randolph W. Hope Company	50,730.58
Insurance Company of North America	4,041.95
International Paper Company*	4,913.90
Fred S. James & Company	7,723.57
Kansas City Fire & Marine	8,626.38
Liberty Mutual	355,196.10
Lumbermen's Mutual Casualty	5,339.60
Nassau Recycle*	523.96
Niagara Fire	5,090.78
North River Insurance	18,443.94
Phillips Fibers*	2,786.75
Riegel Textile*	10,708.64
Sears*	36,663.20
S.C. Dept. of Hwys. & Pub. Transportation*	27,401.87
South Carolina Insurance Company	1,500.00
S.C. State Workmen's Compensation Fund	88,233.53

Spector Freight*	1,774.42
Springs Mills*	45,076.00
Standard Fire	42,338.59
Transport Insurance	9,673.09
Twin City Fire	47,789.88
U.S. Fidelity & Guaranty	41,882.92
Utica Mutual	11,291.41
Westinghouse*	28,335.13
Westvaco*	123.85
Winn-Dixie*	37,747.20

* Self-Insured Employer

INDIVIDUAL EMPLOYERS BENEFITING FROM REIMBURSEMENT PAID TO INSURANCE COMPANIES OR SELF-INSURED EMPLOYERS BY THE SECOND INJURY FUND

Affholders, Inc.	\$11,970.00
Akers Motor Lines	23,764.38
American Bakeries	14,882.26
American Enka	26,000.00
Associated Oil	28,353.90
A Q Industries	18,443.94
Bahan Textile Machinery	17,362.13
Ballenger Corporation	8,000.00
Barnwell Mills	207.61
Ben Arnold	6,043.17
Bi-Lo, Inc.	7,113.53
Braxton Hauling	11,108.35
Bryant Electric	51,840.00
Burlington Industries	4,000.00
Butte Knit	33,037.46
Canron Rail Group	22,743.00
Carolina Ceramics	15,813.13
Charleston County	10,768.85
Chicopee Manufacturing	177.04
Clearwater Finishing	124.07
Coats & Clark	26,998.83
Columbia Supply	15,091.13
Commercial Broadlooms	1,070.04
Community Cash	7,360.63
Continental Group	2,777.14

Damon International	1,041.95
Dan River	26,811.59
Daniel Construction	29,287.96
Del Monte Properties	4,205.76
DHEC	10,376.49
Duke Power Company	17,223.72
Eastern RC Motor Lines	2,673.09
Electromotive Manufacturing	708.26
Emb-Tex	24,214.88
European Health Spa	25,276.13
Forrestry Commission	17,500.00
John Forster Motors	32,352.67
Franciscan Sisters	666.00
General Services	2,128.23
Gladding Corporation	500.00
Gombert VW	10,753.24
W.R. Grace Company	6,406.58
Graniteville Company	12,028.47
Greenville, City of	18,350.66
Greenville County	35,293.80
Greenville Schools	7,106.52
Greenwood Mills	22,469.63
Harrison Electrical Contr.	21,973.00
Hartsville Bldg. Supply	10,000.00
Hennis Freight	7,000.00
Inman Mills	5,305.23
International Paper	4,913.90
J.B. Ivey & Company	11,262.78
Laco Construction	11,500.00
La-Z-Boy	12,594.96
Libco Mills	47,789.88
Lumbermen's Mutual Casualty	22,556.13
Lyman Printing	7,085.06
Marchant Company	1,500.00
Mental Health	38.00
Milliken	29,769.75
Models Coats & Clark	27,009.60
J.H. Montgomery	8,106.96
Mt. Vernon Mills	14,850.18
Nassau Recycle	523.96
Nooter Corporation	1,260.00
North Trident Regional Hospital	5,090.78

OCF Corporation	20,365.59
Oconee School District	963.82
Palmetto Loom Reed	7,921.95
Pargas of Summerville	28,582.82
Pepper Mills Apts.	1,782.54
Pet, Inc.	27,050.13
Phillips Fibers	2,786.75
Piedmont Industries	3,000.00
Pulliam Motors	7,624.67
Rachlin Furniture	3,529.88
Rice Music House	11,250.00
Richway	9,080.10
Riegel Textile	10,708.64
Rock Hill Printing	5,152.10
Ruscon Housing	6,890.80
Santee Cement Carriers	20,797.16
Sears	36,663.20
Sefab	6,369.26
Spartan Mills	340.50
Spector Freight	1,774.42
Spector Freight Systems	54,767.38
Springs Mills	45,076.00
S.C. Dept. Of Hwys & Pub. Transportation	27,401.87
South Carolina Steel	5,394.28
Standard Trucking	5,339.60
State Machinery	49,728.13
J.P. Stevens & Company	20,969.55
S.W. Aircraft Service	14,000.00
Texize Chemicals	11,291.41
Townsend Textile	21,017.00
Trip Construction	8,626.38
Waldensian Bakeries	26,983.19
Westinghouse	28,335.13
Westvaco	7,723.57
Westvaco	123.85
Winn-Dixie	37,747.20
Wometco	21,624.91
W. Crosby Logging	6,000.00
W & W Haulers	28,855.02
W & W Mobile Homes	7,707.55
Youth Service	4,057.82

PAID CLAIMS REPORTED BY:

A. Insurance Carriers	
Aetna Casualty & Surety	8
Aetna Insurance	5
Affiliated F & M	1
American Insurance	1
American Motorist	8
American Mutual	8
Associated Indemnity	6
Casualty Reciprocal Exchange	1
Commercial Union	1
Continental Casualty	2
Employers Insurance of Wausau	1
Federated Mutual	3
Georgia Casualty	2
Hartford	1
Home Insurance	3
Insurance Company of North America	2
Kansas City Fire & Marine	1
Liberty Mutual	53
Lumbermen's Mutual	2
Niagara Fire	1
North River Insurance	1
South Carolina Insurance	1
S.C. State Workmen's Compensation Fund	18
Standard Fire	2
Transport Insurance	3
Twin City Fire	1
U.S. Fidelity & Guaranty	2
Utica Mutual	4
B. Self-Insured Servicing Companies	
Crawford & Company	1
Crum & Forster	1
Hewitt, Coleman & Associates	4
Randolph W. Hope & Company	3
Fred S. James & Company	1
C. Self-Insured Employers	
Coats & Clark	1
Dan River	2
Duke Power Company	1
Greenwood Mills	1
International Paper Company	3

